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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,428	10/16/2001	Jeremy C.A. Procter	101159-26402	6259

7590 01/30/2004

HIGGS, FLETCHER & MACK
401 WEST "A" STREET
SUITE 2600
SAN DIEGO, CA 92101-7913

EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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26511 7590 10/23/2003 HIGGS, FLETCHER & MACK LLP 2600 FIRST NATIONAL BANK BUILDING 401 WEST "A" STREET SAN DIEGO, CA 92101-7910			EXAMINER CHAN, KO HUNG	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 10/23/2003

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SW

Office Action Summary

Application No.

09/981,428

Applicant(s)

PROCTER, JEREMY C.A.

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's newly amended independent claims 1, 21, 25 claims that the "periphery component being fixedly secured to the clamping device by way of one or more channels" is considered new matter for the following reasons. Nothing is found in the specification that describes the channel fixes a bolt extended there through to secured the brackets (30 and 32, figure 2) for example. Indeed, the fixed securement appears to be provided by the securement of the brackets (30 and 32) at two points (34 and 36) for example and not by a single channel or even the channel itself as now claimed. It appears that the bolt is capable of turning within the channel for engagement with the nut during installation of brackets 30 and 32.

There is no disclosure that the channel "fixes" the bolt or as applicant defines it as preventing it from pivoting within the channel in his remarks.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 which depends from claim 1 recites that the periphery component is a guard panel. However, the guard panel of applicant is pivotable relative to the clamping device via hinge 40 where as claim 1 from which claim 19 depends recites the periphery component is fixed secured to the clamping device. Consequently, it is not clear what constitutes the periphery component.

Claim Rejections - 35 USC § 102

Claims 1-8, 10-19, and 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Gostling (US patent no. 3,998,562). Gostling'562 discloses an apparatus capable of guarding with a plurality of peripheral panels (scaffolds 30, figure 5), a clamping device (1) having four channels (2) at 90 degrees spaced about a base component rod (3) and the panels are fixed secured to the clamping device by way of one or more channels, with base component location means being an aperture to receive the rod (3), securing means for the clamp having two flanges (11, figure 1) with aperture for nut (15) and bolt (14).

The merits of claims 9 and 20 were not rejected on art but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in

this Office action by removing the new matter and to include all of the limitations of the base claim and any intervening claims as stated in the previous office action.

Response to Arguments

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

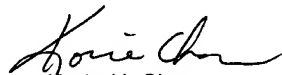
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gostling'533, Gostling'143, Case'946, Howard et al, further demonstrate clamping device for securing peripheral components.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
October 17, 2003